

AMENDED IN ASSEMBLY SEPTEMBER 5, 2007

AMENDED IN ASSEMBLY AUGUST 20, 2007

AMENDED IN ASSEMBLY JUNE 27, 2007

AMENDED IN SENATE APRIL 30, 2007

AMENDED IN SENATE APRIL 9, 2007

SENATE BILL

No. 966

Introduced by Senators Simitian and Kuehl

(Principal coauthor: Assembly Member Parra)

(Coauthor: Assembly Member Huffman)

February 23, 2007

An act to amend Section 47200 of, and to add *and repeal* Article 3.4 (commencing with Section 47120) ~~to~~ of Chapter 1 of Part 7 of Division 30 of, the Public Resources Code, relating to pharmaceutical waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 966, as amended, Simitian. Pharmaceutical drug waste disposal.

(1) Existing law creates the California Integrated Waste Management Board (board) within the California Environmental Protection Agency.

This bill would, *until January 1, 2013*, require the board to develop, in consultation with appropriate state, local, and federal agencies, model programs for the collection and proper disposal of pharmaceutical drug waste. The model programs would be required to include, at a minimum, specific actions and informational elements and would be required to be available to eligible participants no sooner than July 1, 2008, but no later than December 1, 2008.

The bill would provide that its provisions shall not apply to a controlled substance, as defined.

(2) Existing law requires the board to expend certain funds, upon appropriation by the Legislature, for the making of grants, as provided, to cities, counties, and other local agencies with responsibilities for solid waste management, and for local programs to prevent the disposal of hazardous wastes at disposal sites, including, but not limited to, initial implementation or expansion of household hazardous waste programs. The total amount of the grants in any one fiscal year may exceed ~~is~~ \$3,000,000 but cannot exceed \$5,000,000, if sufficient funds are appropriated from the Integrated Waste Management Account for this purpose.

This bill would increase the limit to \$6,000,000.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 3.4 (commencing with Section 47120) is
2 added to Chapter 1 of Part 7 of Division 30 of the Public Resources
3 Code, to read:

4
5 Article 3.4. Drug Waste Management and Disposal
6

7 47120. (a) The Legislature finds and declares all of the
8 following:

9 (1) The United States Geological Survey conducted a study in
10 2002 sampling 139 streams across 30 states and found that 80
11 percent had measurable concentrations of prescription and
12 nonprescription drugs, steroids, and reproductive hormones.

13 (2) Exposure, even to low levels of drugs, has been shown to
14 have negative effects on fish and other aquatic species and may
15 have negative effects on human health.

16 (3) In order to reduce the likelihood of improper disposal of
17 drugs, it is the purpose of this article to establish a program through
18 which the public may return and ensure the safe and
19 environmentally sound disposal of drugs and may do so in a way
20 that is convenient for consumers.

21 (b) It is the intent of the Legislature in enacting this article:

22 (1) To encourage a cooperative relationship between the board
23 and manufacturers, retailers, and local, state, and federal
24 government agencies in the board's development of model

1 programs to devise a safe, efficient, convenient, cost-effective,
2 sustainable, and environmentally sound solution for the disposal
3 of drugs.

4 (2) For the programs and systems developed in other local, state,
5 and national jurisdictions to be used as models for the development
6 of pilot programs in California, including, but not limited to, the
7 efforts in Los Angeles, Marin, San Mateo, and Santa Clara
8 Counties, Oregon, Maine, North Carolina, Washington State,
9 British Columbia, and Australia.

10 (3) To develop a system that recognizes the business practices
11 of ~~retailers and~~ manufacturers *and retailers and other dispensers*
12 and is consistent with and complements their drug management
13 programs.

14 47121. For the purposes of this article, the following terms
15 have the following meanings, unless the context clearly requires
16 otherwise:

17 (a) “Consumer” means an individual purchaser or owner of a
18 drug. “Consumer” does not include a business, corporation, limited
19 partnership, or an entity involved in a wholesale transaction
20 between a distributor and retailer.

21 (b) “Drug” means any of the following:

22 (1) Articles recognized in the official United States
23 Pharmacopoeia, the official National Formulary, the official
24 Homeopathic Pharmacopoeia of the United States, or any
25 supplement of the formulary or those pharmacopoeias.

26 (2) Articles intended for use in the diagnosis, cure, mitigation,
27 treatment, or prevention of disease in humans or other animals.

28 (3) Articles, excluding food, intended to affect the structure or
29 function of the body of humans or other animals.

30 (4) Articles intended for use as a component of an article
31 specified in paragraph (1), (2), or (3).

32 (c) “Participant” means any entity which the board deems
33 appropriate for implementing and evaluating a model program and
34 which chooses to participate, including, but not limited to,
35 governmental entities, pharmacies, veterinarians, clinics, and other
36 medical settings.

37 (d) “Sale” includes, but is not limited to, transactions conducted
38 through sales outlets, catalogs, or the Internet, or any other similar
39 electronic means, but does not include a sale that is a wholesale
40 transaction with a distributor or retailer.

1 47122. (a) (1) The board shall, in consultation with appropriate
2 state, local, and federal agencies, including, but not limited to, the
3 Department of Toxic Substances Control, the State Water
4 Resources Control Board, and the California State Board of
5 Pharmacy, develop model programs for the collection and proper
6 disposal of drug waste. Notwithstanding any other provision of
7 law, the board shall establish, *for participants*, criteria and
8 procedures for the implementation of the model programs.

9 (2) In developing model programs the board shall evaluate a
10 variety of models used by other state, local, and other governmental
11 entities, and shall consider a variety of potential participants that
12 may be appropriate for the collection and disposal of drug waste.

13 (3) No sooner than July 1, 2008, but no later than December 1,
14 2008, the board shall make the model programs available to eligible
15 participants.

16 (b) The model programs shall at a minimum include all of the
17 following:

18 ~~(1) A participant shall provide~~ *means by which a participant is*
19 *required to provide, at no additional cost to the consumer, for the*
20 *safe take back and proper disposal of the type or brand of drugs*
21 *that the participant sells or previously sold.*

22 ~~(2) A participant shall~~ *means by which a participant is required*
23 *to ensure the protection of public health and safety, the*
24 *environment, and the health and safety of consumers and*
25 *employees.*

26 ~~(3) A participant shall provide a~~ *means by which a participant*
27 *is required to report to the board for purposes of evaluation of the*
28 *program for safety, efficiency, effectiveness, and funding*
29 *sustainability.*

30 (4) *A means by which a participant shall protect against the*
31 *potential for the diversion of drug waste for unlawful use or sale.*

32 ~~(5) The take back by a participant shall be at no cost to the~~
33 ~~consumer.~~

34 ~~(6) Provide~~

35 (c) *The model programs shall provide notice and informational*
36 *materials for consumers that provide information about the*
37 *potential impacts of improper disposal of drug waste and the return*
38 *opportunities for the proper disposal of drug waste. Those materials*
39 *may include, Internet Web site links, a telephone number placed*
40 *on an invoice or purchase order, or packaged with a drug;*

1 information about the opportunities and locations for no-cost drug
2 disposal; signage that is prominently displayed and easily visible
3 to the consumer; written materials provided to the consumer at the
4 time of purchase or delivery; reference to the drug take back
5 opportunity in advertising or other promotional materials; or direct
6 communications with the consumer at the time of purchase.

7 (e)

8 (d) Model programs deemed in compliance with this article
9 shall be deemed in compliance with state law and regulation
10 concerning the handling, management, and disposal of drug waste
11 for the purposes of implementing the model program.

12 (d)

13 (e) (1) The board may develop regulations pursuant to Chapter
14 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
15 Title 2 of the Government Code that are necessary to implement
16 this article, including regulations that the department determines
17 are necessary to implement the provisions of this article in a
18 manner that is enforceable.

19 (2) The board may adopt regulations to implement this article
20 as emergency regulations. The emergency regulations adopted
21 pursuant to this article shall be adopted by the department in
22 accordance with Chapter 3.5 (commencing with Section 11340)
23 of Part 1 of Division 3 of Title 2 of the Government Code, and for
24 the purposes of that chapter, including Section 11349.6 of the
25 Government Code, the adoption of these regulations is hereby
26 deemed an emergency and shall be considered by the Office of
27 Administrative Law as necessary for the immediate preservation
28 of the public peace, health, safety, and general welfare.
29 Notwithstanding Chapter 3.5 (commencing with Section 11340)
30 of Part 1 of Division 3 of Title 2 of the Government Code, any
31 emergency regulations adopted by the department pursuant to this
32 section shall be filed with, but not be repealed by, the Office of
33 Administrative Law and shall remain in effect for a period of two
34 years or until revised by the department, whichever occurs sooner.

35 47123. Notwithstanding Section 7550.5 of the Government
36 Code, no later than December 1, 2010, the board shall report to
37 the Legislature. The report shall include an evaluation of the model
38 programs for efficacy, safety, ~~and cost-effectiveness and statewide~~
39 ~~accessibility, and cost effectiveness.~~ *The report shall include the*
40 *consideration of the incidence of diversion of drugs for unlawful*

1 *sale and use, if any. The report also shall provide recommendations*
2 *for the potential implementation of a statewide program and*
3 *statutory changes.*

4 47124. This article shall not apply to a controlled substance,
5 as defined in Section 11007 of the Health and Safety Code.

6 47125. *Nothing in this article shall limit or affect any other*
7 *right or remedy under any applicable law.*

8 47126. *This article shall remain in effect only until January 1,*
9 *2013, and as of that date is repealed, unless a later enacted statute,*
10 *that is enacted before January 1, 2013, deletes or extends that*
11 *date.*

12 SEC. 2. Section 47200 of the Public Resources Code is
13 amended to read:

14 47200. (a) The board shall expend funds from the account,
15 upon appropriation by the Legislature, for the making of grants to
16 cities, counties, or other local agencies with responsibility for solid
17 waste management, and for local programs to help prevent the
18 disposal of hazardous wastes at disposal sites, including, but not
19 limited to, programs to expand or initially implement household
20 hazardous waste programs. In making grants pursuant to this
21 section, the board shall give priority to funding programs that
22 provide for the following:

23 (1) New programs for rural areas, underserved areas, and for
24 small cities.

25 (2) Expansion of existing programs to provide for the collection
26 of additional waste types, innovative or more cost-effective
27 collection methods, or expanded public education services.

28 (3) Regional household hazardous waste programs.

29 (b) (1) The total amount of grants made by the board pursuant
30 to this section shall not exceed, in any one fiscal year, three million
31 dollars (\$3,000,000).

32 (2) Notwithstanding paragraph (1), the total amount of grants
33 made by the board pursuant to this section may exceed three
34 million dollars (\$3,000,000) but shall not exceed six million dollars
35 (\$6,000,000), in any one fiscal year, if sufficient funds are
36 appropriated from the Integrated Waste Management Account for
37 this purpose.